

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Claus H. Bunz & Judith A. Bunz,
Petitioners-Appellants.

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0836
Parcel No. 291/00730-511-000

On February 27, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Claus H. Bunz & Judith A. Bunz requested their appeal be considered without hearing and submitted evidence in support of their petition. They were self-represented. Assistant County Attorneys David Hibbard and Ralph E. Marasco, Jr. represent the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Claus H. Bunz & Judith A. Bunz, owners of property located at 13065 Pinecrest Lane, Clive, Iowa, appeal from the Polk County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story townhouse having 1991 square feet of living area built in 1996. The dwelling has full basement with 1029 square feet of living quarters finish, a 56 square-foot open porch, a 165 square-foot patio, and a 165 square-foot wood deck. It has a high quality (2+00) construction grade and is in normal condition. The improvements are situated on 0.192 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$361,100, representing \$66,700 in land value and \$294,400 in dwelling value.

Bunzes protested to the Board of Review that there has been a downward change in value since the last assessment under Iowa Code section 441.37(1) and 441.35. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). However, the gist of their claim is based on market value and is essentially a claim that the property is assessed for more than authorized by law under section 441.37(1)(b). The Board of Review granted the protest, in part, and reduced the value to \$347,900, representing \$66,700 in land value and \$281,200 in dwelling value.

Bunzes then filed their appeal with this Board based on the same ground. Bunzes challenged the assessment on the basis that there had been a downward change in value of the property. Accordingly, we will consider only the claim of over-assessment.

Bunzes requested a reduction in value to \$325,000, allocated \$62,000 to land value and \$263,000 to dwelling value. They provided a copy of the purchase agreement dated February 7, 2011 showing a \$325,000 purchase price and a copy of the Warranty Deed which was recorded on March 15, 2011. Bunzes contend the purchase price indicates the property's fair market value. There is nothing in the record to suggest the transfer was not a normal, arms-length transaction.

The Board of Review Appraiser Analysis recommended the subject property's assessment be reduced based on comparable sales in the area. The reduction was made by changing the subject's quality grade from 2-05 to 2+00. The record includes four 2010 comparable sales of one-story townhouses in the area. Unadjusted sale prices ranged from \$267,000 to \$408,000, or \$136.85 to \$197.10 per square foot. Adjusted sale prices ranged from \$241,981 to \$387,332, or \$124.03 to \$187.12 per square foot. The subject property's sale price was \$163.23 per square foot, and its assessed value of \$174.74 per square foot, are well within the range of both the unadjusted and adjusted sale prices.

We also note the record includes neighborhood data showing six other one-story townhouses with 1991 total square feet, built in 1995-1997, in the range of high quality construction grades (2+00 to 2+05), and in normal condition, similar to the subject property. While we lack additional information on these properties to further develop a comparison of their features and amenities, they do appear similar to the subject property. Their assessments ranged from \$319,800 to \$366,700, or \$160.62 to \$180.21 per square foot. The subject property's \$325,000 sale price and \$349,700 assessment are both within this range.

Viewing the record as a whole, we find the preponderance evidence supports Bunzes' claim their property was over-assessed as of January 1, 2011. The subject property's assessment exceeds the purchase price of the property. The sale price is within the range of sale prices of other comparable properties in the area. Evidence in the record indicates the Bunzes' purchase was an arms-length transaction. Given Iowa's statutory preference for using the sales approach to determine market value, the purchase price is the best evidence in the record of the fair market value of the property. Iowa Code § 441.21(1)(b).

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

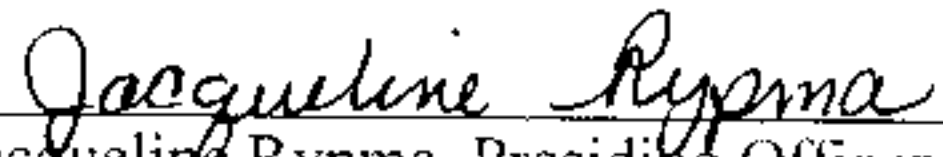
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). A sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. It is clear from the wording of section 441.21(1)(b) that a sales price for the subject property in a normal transaction just as a sales price of comparable property is a matter to be considered in arriving at market value but does not conclusively establish that value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). In this case, we find the Bunzes' purchase was an arms-length transaction and the purchase price is the best evidence of the fair market value of the property. Bunzes proved by a preponderance of the evidence that their property is over-assessed and the fair market value of the property as of January 1, 2011.

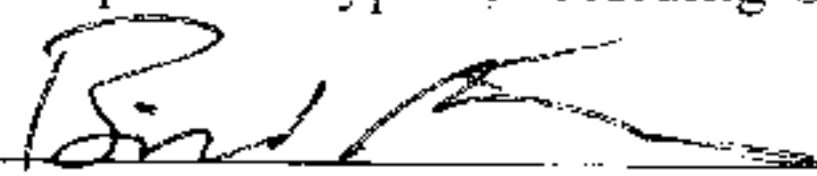
Therefore, we modify the property assessment as determined by the Board of Review to \$325,000, representing \$66,700 in land value and \$258,300 in dwelling value as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is modified as set forth above.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 24 day of April 2012.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Chair


Karen Oberman, Board Member

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-24</u> , 201 <u>2</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	